

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

(1) ADAM V. REED, an individual,	)	
	)	
PLAINTIFF.	)	
	)	
vs.	)	Case No. 16-cv-178-CVE-PJC
	)	
(2) BEN E KEITH COMPANY,	)	
	)	
DEFENDANT.	)	
	)	

**NOTICE OF REMOVAL**

Defendant Ben E. Keith Company ("BEK") pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, hereby removes this action from the District Court of Ottawa County, Oklahoma, where it was filed as Case No. CJ-2015-00119, to the United States District Court for the Northern District of Oklahoma. As grounds for removal, BEK states as follows:

1. On September 21, 2015, plaintiff filed a Petition in the District Court of Ottawa County, State of Oklahoma, against BEK. The case was assigned Case No. CJ-2015-000119.

2. The civil summons and the Petition (the "State Court Action") were properly served on BEK on March 16, 2016. A true and correct copy of the Petition and summons as received are attached hereto as Exhibits 1 and 2, respectively.

3. BEK has not yet filed an answer or responsive pleading in the State Court Action. In filing this Notice of Removal, BEK does not waive any defense or counterclaim that might be available to the Defendant.

4. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331, and the action may be removed to this Court by BEK pursuant to 28 U.S.C. §§ 1441 and 1446.

5. The Petition alleges civil actions arising under the Constitution, laws or treaties of the United States as follows: The Petition alleges he timely filed a Charge of Discrimination with

the Equal Employment Opportunity Commission and has received a Right to Sue letter on June 30, 2015. Ex. 1 at ¶ 9. Copies of the Notice of Charge of Discrimination and the Right to Sue Letter are attached hereto as Exs. 3 and 4, respectively. The Petition then alleges unlawful disability discrimination for which Plaintiff seeks damages. Ex. 1 at ¶ 10. The Petition alleges a violation of the Americans with Disabilities Act, 42 U.S.C. § 12111 et seq. *See* Exs. 1, 3-4.

6. Removal of this action from the District Court of Tulsa County, State of Oklahoma, to this Court is, therefore, proper under 28 U.S.C. § 1441, Because this Court would have had original jurisdiction of the action under 28 U.S.C. § 1331 had the action been initially filed in this Court.

7. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) because it is filed within thirty (30) days of BEK's receipt of the Petition on or about March 16, 2016, and within one (1) year of the commencement of the action.

8. Written notice of filing of this Notice of Removal will be given to Plaintiff, by and through his counsel of record in the State Court Action. Also, as required by 28 U.S.C. § 1446(d), a copy of this Notice will be filed with the Clerk of the District Court of Ottawa County, State of Oklahoma, the court in which the State Court Action was filed.

9. All papers served on BEK in the State Court Action at the time of this removal, consisting of the Petition and civil summons, are attached as Exhibits 1-2, pursuant to 28 U.S.C. § 1446(a) and LCvR 81.2.

10. Pursuant to LCvR 81.2, a true and correct copy of the docket sheet in the State Court Action, current through the date of this filing, is attached hereto as Exhibit 5. No motions are currently pending in the State Court Action.

11. BEK will file a Status Report on the Removed Action in accordance with LCvR 81.2.

WHEREFORE Defendant Ben E. Keith respectfully requests that the above referenced action now pending in the District Court of Ottawa County, State of Oklahoma, be removed therefrom and proceed in this Court as an action duly removed from this day forward.

Respectfully submitted,

DOERNER, SAUNDERS, DANIEL &  
ANDERSON, L.L.P.


By:   
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*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 4th day of April, 2016, a true and correct copy of the above and foregoing instrument was mailed, with proper postage thereon, to:

Mitchell E. Shamas  
6863 S. Canton Ave.  
Tulsa, OK 74136

  
Kristen L. Brightmire